

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:) Chapter 11
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
Debtor.)

**TRUSTEE'S OBJECTION TO CLAIM 232 FILED BY SAM FOUSEK
AND NOTICE OF RESPONSE DEADLINE**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 232 (the "Claim")¹ filed by Sam Fousek ("Mr. Fousek"). The Trustee requests that the Court enter an order denying and expunging the Claim in its entirety. In support of this Objection, the Trustee respectfully states:

Jurisdiction

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

Background

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11 bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against

¹ All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

6. The Court entered an order confirming the *Trustee's First Amended Chapter 11 Plan of Liquidation* [Dock. No. 1490] (the "Plan") on December 17, 2012, and the Plan became effective on December 20, 2012. *See* Dock. No. 1675.

7. Pursuant to the Plan, the deadline for claim objections is April 19, 2013.

Request for Relief

8. By this Objection, the Trustee seeks entry of an order denying and expunging the Claim in its entirety.

9. The Claim asserts an unsecured claim in the amount of \$97,644.47. However, the claim attaches a statement of account for Fousek Trucking, Inc., not Mr. Fousek. The statement of account lists amounts not payable by Debtor. Debtor's books and records do not list any account payable to Mr. Fousek but instead indicate that Mr. Fousek owes the Debtor's estate in excess of \$95,000. The Trustee may file an adversary complaint to collect obligations owed by Mr. Fousek to Debtor.

10. The Trustee therefore objects to the Claim and requests that the Claim be disallowed and expunged in its entirety.

Notice of Response Deadline

11. If Mr. Fousek wishes to contest the relief requested in this Objection, Mr. Fousek must file a response with the Court within thirty (30) days of the service of this Objection ("Response Deadline"). Responses must be filed with the Clerk of the United States Bankruptcy Court, Southern District of Indiana, New Albany Division, 110 U.S. Courthouse, 121 West Spring Street, New Albany, IN 47150 no later than 4:30 p.m. EDT on the Response Deadline and served on Trustee's Counsel, Faegre Baker Daniels LLP, 300 N. Meridian Street, Suite 2700, Indianapolis, IN 46204 (Attn: Dustin DeNeal). **IF NO RESPONSE IS FILED BY THE RESPONSE DEADLINE THE COURT MAY SUSTAIN THE OBJECTION TO THE CLAIM WITHOUT FURTHER NOTICE OR HEARING.**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order disallowing and expunging the Claim in its entirety and granting the Trustee all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

Terry E. Hall (#22041-49)
Kevin M. Toner (#11343-49)
Dustin R. DeNeal (#27535-49)
Kayla D. Britton (#29177-06)
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204-1782
Telephone: (317) 237-0300
Facsimile: (317) 237-1000
terry.hall@faegrebd.com
kevin.toner@faegrebd.com
dustin.deneal@faegrebd.com
kayla.britton@faegrebd.com

Counsel for James A. Knauer, Chapter 11 Trustee

Wendy W. Ponader (#14633-49)
600 East 96th Street, Suite 600
Indianapolis, IN 46240
Telephone: (317) 569-9600
Facsimile: (317) 569-4800
wendy.ponader@faegrebd.com

CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt
davidabt@mwt.net

C. R. Bowles, Jr
cbowles@ bndllegal.com

John Hunt Lovell
john@lovell-law.net

Mark A. Robinson
mrobinson@vhrlaw.com

Jeffrey R. Erler
jeffe@bellnunnally.com

Edward M King
tking@fbtlaw.com

Randall D. LaTour
rdlatour@vorys.com

John R. Carr, III
jrciii@acs-law.com

Bret S. Clement
bclement@acs-law.com

Daniel J. Donnellon
ddonnellan@fclaw.com

Stephen A. Weigand
sweigand@fclaw.com

John Frederick Massouh
john.massouh@sprouselaw.com

John W. Ames
james@bndllegal.com

Robert Hughes Foree
robertforee@bellsouth.net

Kim Martin Lewis
kim.lewis@dinslaw.com

Jeremy S Rogers
Jeremy.Rogers@dinslaw.com

Ivana B. Shallcross
ishallcross@ bndllegal.com

Deborah Caruso
dcaruso@daleke.com

Meredith R. Thomas mthomas@daleeke.com	William Robert Meyer, II rmeyer@stites.com	Allen Morris amorris@stites.com
Charles R. Wharton Charles.R.Wharton@usdoj.gov	James Bryan Johnston bjtexas59@hotmail.com	James T. Young james@rubin-levin.net
David L. LeBas dlebas@namanhowell.com	Judy Hamilton Morse judy.morse@crowedunlevy.com	John M. Thompson john.thompson@crowedunlevy.com
Jessica E. Yates jyates@swlaw.com	John Huffaker john.huffaker@sprouselaw.com	Matthew J. Ochs kim.maynes@moyewhite.com
Laura Day Delcotto lidelcotto@dlgfirm.com	Kelly Greene McConnell lisahughes@givenspursley.com	T. Kent Barber kbarber@dlgfirm.com
Ross A. Plourde ross.plourde@mcafeetaft.com	Walter Scott Newbern wsnewbern@msn.com	Kirk Crutcher kcrutcher@mcs-law.com
Todd J. Johnston tjohnston@mcjllp.com	Timothy T. Pridmore tpridmore@mcjllp.com	Theodore A Konstantinopoulos ndohbky@jbandr.com
Karen L. Lobring lobring@msn.com	Sandra D. Freeburger sfreeburger@dsf-atty.com	Lisa Koch Bryant courtmail@fbhllaw.net
Elliott D. Levin edl@rubin-levin.net	John M. Rogers johnr@rubin-levin.net	John David Hoover jdhoover@hooverhull.com
Sean T. White swhite@hooverhull.com	Jay P. Kennedy jpk@kgrlaw.com	John R. Burns john.burns@faegrebd.com
Michael W. McClain mike@kentuckytrial.com	William E Smith wsmith@k-glaw.com	Kayla D. Britton kayla.britton@faegrebd.com
James Edwin McGhee mcghee@derbycitylaw.com	Thomas C Scherer tscherer@bgdlegal.com	David A. Laird david.laird@moyewhite.com
Jerald I. Ancel jancel@taftlaw.com	Jeffrey J. Graham jgraham@taftlaw.com	Trevor L. Earl tearl@rwsvlaw.com
David Alan Domina dad@dominalaw.com	Kent A Britt kabritt@vorys.com	Joshua N. Stine kabritt@vorys.com
Jill Zengler Julian Jill.Julian@usdoj.gov	Jeffrey L Hunter jeff.hunter@usdoj.gov	Amelia Martin Adams aadams@dlgfirm.com
Michael Wayne Oyler moyler@rwsvlaw.com	Jason W. Cottrell jwc@stuartlaw.com	Robert A. Bell rabell@vorys.com
James E. Rossow jim@rubin-levin.net	James B. Lind jblind@vorys.com	Melissa S. Giberson msgiberson@vorys.com
Steven A. Brehm sbrehm@ bgdlegal.com	Anthony G. Raluy traluy@fbhllaw.net	U.S. Trustee ustpregion10.in.ecf@usdoj.gov
James M. Carr james.carr@faegrebd.com	Jack S. Dawson jdawson@millerdollarhide.com	Dustin R. DeNeal dustin.deneal@faegrebd.com
Shawna M. Eikenberry shawna.eikenberry@faegrebd.com	Terry E. Hall terry.hall@faegrebd.com	Jay Jaffe jay.jaffe@faegrebd.com
James A. Knauer jak@kgrlaw.com	Erick P. Knoblock eknoblock@daleeke.com	Harmony A. Mappes harmony.mappes@faegrebd.com
Christie A. Moore cm@gdm.com	Shiv Ghuman O'Neill shiv.oneill@faegrebd.com	Wendy W. Ponader wendy.ponader@faegrebd.com
Peter M. Gannott pgannott@gannottlaw.com	Eric C. Redman ksmith@redmanludwig.com	Joe T. Roberts jratty@windstream.net

Joseph H. Rogers
jrogers@millerdollarhide.com

Andrew D. Stosberg
astosberg@lloydm.com

Christopher M. Trapp
ctrapp@rubin-levin.net

Jennifer Watt
jwatt@kgrlaw.com

James E. Smith
jsmith@smithakins.com

Kevin M. Toner
kevin.toner@faegrebd.com

Eric W. Richardson
ewrichardson@vorys.com

Michael Benton Willey
michael.willey@ag.tn.gov

Robert K. Stanley
robert.stanley@faegrebd.com

Andrea L. Wasson
andrea@wassonthornhill.com

Joshua Elliott Clubb
joshclubb@gmail.com

I further certify that on April 19, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

Sam Fousek
First National Bank
106 RR SW
Wagner, SD 57380

/s/ Dustin R. DeNeal